MOTION FILED
DEC 13 1968
LIBRARY
SUPREME COURT U. S.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1968

NO. 374

JAMES A. TOTTON, d/b/a
TOTTON AND DUNN COMPANY,
Petitioner,

v.

LOCAL 43 OF UNITED ASSOCIATION OF
JOURNEYMEN AND APPRENTICES OF THE
PLUMBING AND PIPE FITTING INDUSTRY
OF THE UNITED STATES AND CANADA,
Respondents.

MOTION TO EXTEND TIME

MOTION TO REHEAR

JOHN A. CHAMBLISS, JR.,
1111 Maclellan Building,
Chattanooga, Tennessee 37402,
Attorney for Petitioner.

SIZER CHAMBLISS,
400 Pioneer Building,
Chattanooga, Tennessee 37402,
Of Counsel.

TENNESSEE LAW PRINTERS, P. O. Box 277, Knoxville, Tennessee, Phone 525-4202

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1968

NO. 374

JAMES A. TOTTON, d/b/a
TOTTON AND DUNN COMPANY,
Petitioner,

v.

LOCAL 43 OF UNITED ASSOCIATION OF
JOURNEYMEN AND APPRENTICES OF THE
PLUMBING AND PIPE FITTING INDUSTRY
OF THE UNITED STATES AND CANADA,
Respondent.

MOTION TO EXTEND TIME

James A. Totton, petitioner in No. 374, October Term, 1968, moves the Court to extend the time within which a petition to rehear may be filed, and to permit the filing of said petition to rehear, in said matter, for the reasons appearing in said petition.

PETITION TO REHEAR

James A. Totton, petitioner in No. 374, October Term, 1968, which petition was denied on October 21, 1968, prays the Court to rehear said petition and remand the case for

consideration in light of the decision in *Commonwealth Coating Corp. v. Continental Casualty Co., et al*, No. 14, October Term 1968, decided November 18, 1968.

The grounds for this petition to rehear are:

In *Commonwealth Coating Corp. v. Continental Casualty Co.* this Court indicated that court review of an arbitration award was not impossible, and reversed an arbitration board award because of possible prejudice on the part of a member of the board.

In the Totton petition the District Court and Court of Appeals for the Sixth Circuit held that since the question raised by the plaintiff Totton had been submitted to the Joint Conference Board—no member of which was picked by the plaintiff, but half was selected by the Union and half by the Contractors Association, of which the plaintiff was not a member—the decision of the Joint Conference Board "would be conclusive," and no Court review was possible. The Court held that *no* question either of prejudice of the Joint Conference Board or of legality of its decision could be raised.

Respectfully submitted,

.....

JOHN A. CHAMBLISS, JR.,
1111 Maclellan Building,
Chattanooga, Tennessee 37402,

Attorney for Petitioner,

SIZER CHAMBLISS,
400 Pioneer Building,
Chattanooga, Tennessee 37402,

Of Counsel.

This is to certify that the above petition to rehear is presented in good faith and not for delay, and is presented only because the intervening decision of this Court indicates that review of an arbitration for legality is possible.

.....

JOHN A. CHAMBLISS, JR.